

Decision 18-10-005 October 11, 2018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering.

Rulemaking 14-07-002

**DECISION DENYING PETITION FOR MODIFICATION OF
DECISION 14-05-033 REGARDING DESIGNATION OF SMALL NET ENERGY
METERING-ELIGIBLE FACILITIES PAIRED WITH ENERGY STORAGE**

Summary

This decision denies a petition by ABC Solar Incorporated to modify Decision 14-05-033. ABC Solar Incorporated's petition requests the Commission to modify the size criteria by which Decision 14-05-033 imposes a size limit and metering requirements on net energy metering-eligible facilities paired with energy storage. The purpose of these requirements is to limit net energy metering credits to net energy metering-eligible generation.

1. Background

In Decision (D.) 14-05-033 the Commission clarified existing policy that customers who receive electric service on a net energy metering (NEM) tariff may pair their NEM-eligible generation facilities (GFs) with qualifying storage devices; D.14-05-033 refers to such devices as NEM-paired storage, or NEM-PS, devices. D.14-05-033 distinguishes 'small' GFs from 'large' GFs and applies

differing requirements for each classification, for the purpose of limiting NEM bill credits to NEM-eligible generation, that is, energy generated by a NEM-eligible facility as opposed to non-renewable or only partially renewable energy. D.14-05-033 defines small GFs as those with NEM-PS devices of 10 kilowatts (kW) or less (alternating current (AC)) maximum discharge capacity; large GFs are those with NEM-PS devices that exceed 10 kW (AC) maximum discharge capacity. For small GFs with a NEM-PS device, D.14-05-033 requires that NEM credits accrued in any interval must be the lesser of the actual export by the GF to the utility, and the estimated presumed generation profile of the NEM generator based on an established estimation methodology for the NEM generator; no additional metering equipment is required to measure the actual storage or renewable output. For large GFs with a NEM-PS device, D.14-05-033 limits the output power of the NEM-PS device to 150 percent of the GF's capacity, and requires metering equipment similar to what is required for customers who take service on a NEM Multiple Tariff (NEM-MT). Specifically, the customer-generator must: (1) install a non-export relay on the storage device(s); (2) install an interval meter for the NEM-eligible generation, meter the load, and meter total energy flows at the point of common coupling; or (3) install an interval meter directly to the NEM-eligible generator(s).

On October 23, 2017, ABC Solar Incorporated (ABC Solar) filed and served a petition for modification of D.14-05-033 (Petition) requesting (1) to reverse Southern California Edison Company's (SCE) denial of permission to operate (PTO) for a NEM-eligible GF with a 10.8 kW NEM-PS device and, relatedly, to establish a Solar Triage Unit that would oversee the utilities' interconnection

processes;¹ and (2) to “change to 30 kW any reference to size restrictions for residential Solar PV with Advanced Battery Systems.”² The Petition explains the purpose for its requests “is to identify actions by [Southern California Edison Company] as being either illegal or contrary to Federal, State Laws, Rules and Regulations.”³

With respect to the first request, the Petition alleges SCE caused harm to ABC Solar, a solar installation company, by promoting solar photovoltaic (PV) with advanced battery systems up to 30 kW in size through the Self-Generation Incentive Program, and subsequently (beginning in August 2017) denying permission to one of ABC Solar’s clients to operate a NEM-eligible GF paired with a 10.8 kW NEM-PS device. The Petition asserts SCE improperly used D.14-05-033 as grounds to deny permission to operate, citing other language in D.14-05-033 and email communications from SCE’s assigned engineer as grounds to request an exemption from the metering requirements for large GFs with NEM-PS devices. With respect to the second request, the Petition cites Public Utilities Code Section 2827(b)(4) and the United States Supreme Court’s opinion in *MCI Telecommunications Corp. v. American Telephone & Telegraph Co.*, 512 U.S. 218 (1994) (*MCI v. ATT*) to assert D.14-05-033’s requirements, for large GFs with NEM-PS devices, constitute an unlawful contravention of Civil Code Section 714, referred to as the “Solar Rights Act.”

¹ *Petition of ABC Solar Incorporated for Modification of D.14-05-033 Request to Modify All Residential Solar Energy Systems to 30 KW Before Restrictions or Required Advanced Metering to Comply With Solar Rights Act and Other Laws* (Petition), filed October 23, 2017, at 12 and 55.

² Petition at 11.

³ Petition at 9.

On November 22, 2017, SCE and San Diego Gas & Electric Company (SDG&E) each filed and served a response to the Petition. Both responses assert the Petition, or the portion thereof alleging wrongdoing by SCE, is more appropriately considered a complaint against SCE. As a complaint, SCE and SDG&E assert, the pleading should be denied because the complainant does not have standing (i.e., the complainant is not the allegedly harmed customer) and fails to state a valid claim of harm.⁴

SCE further argues for denial of the Petition's specific request to modify D.14-05-033, to re-classify 'small' GFs as those with NEM-PS devices of 30 kW or less (instead of 10 kW or less) (AC) maximum discharge capacity, because the Petition lacks legal or factual merit for this request. In support of maintaining the existing classifications of 'small' and 'large' GFs with NEM-PS devices, SCE emphasizes the original policy rationale for the State's net energy metering policy, which is to support adoption of renewable distributed energy technologies "primarily to offset part or all of [a] customer's own electrical requirements."⁵

ABC Solar did not request leave to file, and did not file, a reply to either SCE's or SDG&E's response.

ABC Solar filed several various motions in connection with the Petition, identified as follows:

⁴ *Response of Southern California Edison Company (U 338-E) to Petition of ABC Solar Incorporated for Modification of D.14-05-033 Request to Modify All Residential Solar Energy Systems to 30 kW Before Restrictions or Required Advanced Metering to Comply With Solar Rights Acts and Other Laws*, filed November 22, 2017 (SCE Response), at 5; and *Response of San Diego Gas & Electric Company (U 902 E) to Petition for Modification of D.14-05-033 By Of (sic) ABC Solar, Inc.*, filed November 22, 2017 (SDG&E Response), at 2-3.

⁵ Public Utilities Code Section 2827.

- *Motion to Submit Evidence of Foul Play by SCE in Creating New “Super-Secret” Requirements for 11KW Solar PV Advanced Storage System to Achieve Permission to Operate (PTO) in Support of Petition to Modify D.14.05.033 [sic]*, Filing date: February 16, 2018.
- *Motion for Discovery Petition to Modify D-14-05-033 [sic] by ABC Solar Incorporated*, Filing date: February 20, 2018.
- *Motion for Expedited Hearing Petition to Modify D-14-05-033 [sic] by ABC Solar Incorporated*, Filing date: February 20, 2018.
- *Motion for Submitting Evidence Petition to Modify D-14-05-033 [sic] by ABC Solar Incorporated*, Filing date: March 16, 2018.
- *Motion for Emergency Temporary Restraining Order Against Southern California Edison (SCE) Self-Generation Incentive Program (SGIP) for violation of CPUC Rules and Regulations*, Filing date: April 12, 2018.
- *Motion to Compel Discovery by Southern California Edison Requested by Bradley Bartz and ABC Solar in Regards to Petition to Modify D.14.05.033 [sic]*, Filing date: May 11, 2018.
- *Motion to Request Informal Discovery Conference by Bradley Bartz and ABC Solar in Regards to Petition to Modify D.14.05.033 [sic]*, Filing date: May 22, 2018.
- *Motion for Discovery to PGE, SDG&E, CPUC Staff and Any Member of Rulemaking 14.07.002 [sic] That Received Intervener [sic] Compensation*, Filing date: June 6, 2018.
- *Motion to Submit Evidence of Foul Play by SCE in Creating New “Super-Secret” Requirements for 11KW Solar PV Advanced Storage System to Achieve Permission to Operate (PTO) in Support of Petition to Modify D.14.05.033 [sic]*, Filing date: June 19, 2018.

Each of the above motions relates to ABC Solar’s allegation of wrongdoing by SCE.

2. Issues Before the Commission

As a procedural matter, the responses to the Petition correctly note that allegations against a regulated entity for violation of a Commission rule or order are appropriately brought to the Commission as complaints rather than in a

petition for modification.⁶ Also, the Petition asks that we both make an exception to the current rules for one specific project, and simultaneously change those same rules, which would obviate the need for the former request for relief.⁷ For both procedural and practical reasons, we find it is appropriate to consider only the latter request, i.e., whether to re-classify ‘small’ GFs as those with NEM-PS devices of 30 kW or less. In addressing this request, we consider whether the petitioner met its substantial burden, pursuant to Rule 16.4(b) of the Commission’s Rules of Practice and Procedure, to demonstrate that the Commission should exercise its discretion to modify D.14-05-033. The Commission has considerable discretion when ruling on a petition for modification.⁸ The Commission’s exercise of authority under Public Utilities Code Section 1708 is an “‘extraordinary remedy’ that must be ‘sparingly and carefully applied.’”⁹

3. Discussion and Analysis

In support of its request to re-classify small GFs as those with NEM-PS devices of 30 kW or less, ABC Solar makes several arguments, each of which we

⁶ ABC Solar acknowledges, by way of including an email communication from the Commission’s Docket Office staff in the Petition, that ABC Solar was made aware of this requirement.

⁷ According to publicly available NEM interconnection data, the specific project application for which the Petition sought a waiver/exemption from D.14-05-033, SCE-INT-NST-02490, acquired a status of “approved” on December 21, 2017. See NEM Interconnection Applications Data Set, available at <https://www.californiadgstats.ca.gov/downloads/>

⁸ Rules of Practice and Procedure, Rule 16.4; see also *PG&E Corp. v. Public Utilities Com.* (2004) 118 Cal.App.4th 1174, 1215 [California Public Utilities Code Section 1708, which authorizes the Commission to “rescind, alter, or amend any order or decision made by it,” is permissive].

⁹ 2017 Cal. PUC LEXIS 514, at 7; 1998 Cal. PUC LEXIS 658, at 2.

describe and address here. In short, we affirm D.14-05-033 as consistent with State law, and find the Petition does not provide a compelling basis, policy or otherwise, to modify D.14-05-033 as requested.

3.1. Decision 14-05-033 does not violate Civil Code Section 714 (“Solar Rights Act”)

The Petition asserts D.14-05-033 is unlawful because it violates Civil Code Section 714, referred to as the Solar Rights Act. Civil Code Section 714 states, in pertinent part:

(a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, real property, and any provision of a governing document, as defined in Section 4150 or 6552, that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on solar energy systems. However, it is the policy of the state to promote and encourage the use of solar energy systems and to remove obstacles thereto. Accordingly, reasonable restrictions on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.

...

(d) For the purposes of this section:

(1)

(A)

(B) For photovoltaic systems that comply with state and federal law, “significantly” means an amount not to exceed one thousand dollars (\$1,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10 percent as originally specified and proposed.

The Petition references Public Utilities Code Section 2827(b)(4) as “showing a max (sic) size reference for residential and others at not more than one-megawatt,”¹⁰ implying that one megawatt is a “reasonable restriction” as specified in the Solar Rights Act.

Public Utilities Code Section 2827(b)(4) states:

‘Eligible customer-generator’ means a residential customer, small commercial customer as defined in subdivision (h) of Section 331, or commercial, industrial, or agricultural customer of an electric utility, who uses a renewable electrical generation facility, or a combination of those facilities, with a total capacity of not more than one megawatt, that is located on the customer’s owned, leased, or rented premises, and is interconnected and operates in parallel with the electrical grid, and is intended primarily to offset part or all of the customer’s own electrical requirements.

Public Utilities Code Section 2827(b)(4) contains two distinct requirements with respect to system size. First, the renewable electrical generation facility must have a total capacity of one megawatt (1 MW) or less. Second, the facility must be “intended primarily to offset part or all of the customer’s own electrical requirements.” One megawatt is the maximum size limit on NEM-eligible generation facilities in all cases, but in each case the facility must also be sized no larger than the eligible customer-generator’s own electrical requirements, which is well below 1 MW for the average residential customer.¹¹

¹⁰ Petition at 13.

¹¹ The Commission has held that electric service under NEM is limited to eligible facilities that are sized to meet the utility customer’s own electric requirements. *See, e.g.,* D.16-04-028 denying complaint of David Davis against SCE. The Petition, at 14, also refers to *Davis v. Southern California Edison Company*, 236 Cal.App.4th 619 (2015), in which David Davis appealed dismissal of a civil court action he brought against SCE. In that case, the Court of Appeal upheld the trial court’s dismissal on the basis that this Commission has supervisory and regulatory jurisdiction over both utility interconnection and the NEM program.

The Petition also references the Self-Generation Incentive Program (SGIP) Handbook, stating “[i]n the SGIP Program Handbook – 2017 30 KW system size is used as the minimum size before sophisticated meter technology can be required,”¹² suggesting the Commission should set a residential system size threshold of, at minimum, 30 kW, before requiring metering equipment for NEM-eligible facilities paired with energy storage. The SGIP Program requires metering and monitoring for all SGIP technologies (including energy storage) 30 kW or larger.¹³ The purpose of the SGIP metering requirements, however, is distinct from the purpose for requiring metering of large NEM facilities paired with energy storage. The SGIP program provides incentives to customers to install qualified technologies. The Commission, in D.11-09-015, determined it would be reasonable to pay incentives for systems larger than 30 kW, in part, based on their actual output (incentives for smaller systems would continue to be paid entirely upon project completion and verification). Thus, metering is needed in order to measure the output of those systems. Whereas, in the SGIP program, metering is required to ensure ratepayer funds only pay for systems that generate energy as intended; for NEM-eligible GFs paired with energy storage, metering is required to ensure the paired storage device exports energy exclusively from the NEM-eligible facility.

The size restriction and metering requirement adopted in D.14-05-033 for large GFs with NEM-PS devices is not related to the Solar Rights Act or the SGIP Handbook and is compliant with Public Utilities Code Section 2827(b)(4). The

¹² Petition at 65.

¹³ Self-Generation Incentive Program Handbook, published December 18, 2017, accessible at <https://www.selfgenca.com/documents/handbook/2017>, Section 5.2.3.

purpose of the size restriction and metering requirement for large GFs with NEM-PS devices, as clearly detailed in D.14-05-033, is to “ensure that only NEM-eligible generation receives NEM credit,”¹⁴ pursuant to the definition of “eligible customer-generator” in Public Utilities Code Section 2827(b)(4).

Decision 14-05-033 does not impose any restrictions on solar energy systems, as defined in the Solar Rights Act;¹⁵ instead, it imposes a restriction on NEM-eligible GFs paired with qualified storage devices, pursuant to Public Utilities Code Section 2827(b)(4), and thus does not violate the Solar Rights Act.

3.1.1. Decision 14-05-033 does not constitute “Permissive Detariffing”

Related to the alleged violation of Civil Code Section 714 and Public Utilities Code Section 2827(b)(4), the Petition asserts “D.14-05-033 is Permissive Detariffing, an illegal act, as defined by *MCI v ATT*,”¹⁶ with reference to *MCI TELECOMMUNICATIONS CORP. v. AMERICAN TELEPHONE & TELEGRAPH CO.* (*MCI v. ATT*). Specifically, the Petition asserts D.14-05-033’s requirements for NEM-eligible facilities paired with energy storage constitute more than a

¹⁴ D.14-05-033, at 20.

¹⁵ Civil Code Section 801.5: As used in this section, “solar energy system” means either of the following:

(1) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.

(2) A structural design feature of a building, including either of the following:

(A) Any design feature whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

(B) Any photovoltaic device or technology that is integrated into a building, including, but not limited to, photovoltaic windows, siding, and roofing shingles or tiles.

¹⁶ Petition, at 9.

“minor” modification, as specified in MCI v. ATT, to the Solar Rights Act with respect to placing reasonable limitations on solar systems sized up to one megawatt.

This argument is not a relevant basis for granting the requested relief, given our earlier discussion that D.14-05-033 is not related to, and therefore does not violate, the Solar Rights Act.

3.1.2. The Petition lacks policy or factual justification for the requested modification

Although we decline to address the Petition’s allegation of wrongdoing by SCE, it is important to acknowledge and clarify several of the Petition’s arguments in support of the requested relief, to make clear D.14-05-033 does not conflict with Commission policy and, further, the Petition does not otherwise provide support for the requested relief.

First, the Petition refers to D.16-04-020’s limit on fees associated with metering, equating this fee limit to an exemption from D.14-05-033’s metering requirements for large GFs with NEM-PS devices.¹⁷ However, D.16-04-020’s fee limit applies only to small (i.e., 10 kW or less) NEM-eligible facilities paired with energy storage. Specifically, D.16-04-020 Ordering Paragraph 4 provides:

A \$600 limit shall apply on fees associated with metering the systems described in Ordering Paragraphs 2 and 3, with an exemption for systems requiring complex metering solutions.

The systems described in Ordering Paragraphs 2 and 3 are NEM-eligible generation facilities paired with storage devices sized 10 kW or less. The system that is the subject of ABC Solar’s Petition is greater than 10 kW, and therefore

¹⁷ Petition at 43-45, 55-56, and 68.

would not qualify for the fee limitation provided in D.16-04-020. We note separately, however, D.14-05-033 Ordering Paragraph 10 does set a \$600 limit on fees associated with metering equipment for all NEM-PS systems, except for “systems requiring complex metering solutions.” It is unclear whether the system that is the subject of ABC Solar’s Petition requires complex metering or, if not, it qualifies for the fee limitation provided in D.14-05-033. Regardless, this fee limit does not, as the Petition implies, exempt large GFs with NEM-PS devices from D.14-05-033’s metering requirements.

Similarly, the Petition erroneously refers to the phrase “when it is technically feasible to do so” in Ordering Paragraph 8 of D.14-05-033, juxtaposed with the assigned engineer’s statement that “it is not technically feasible to do so (e.g., adhere to metering requirements)”¹⁸ to assert ABC Solar’s client’s system merits exemption from the metering requirements.¹⁹ However, Ordering Paragraph 8 of D.14-05-033 concerns the option of customer-generators with small GFs to adhere to the metering requirements applicable to large GFs, when it is technically feasible to do so. ABC Solar’s client’s system is a large GF, therefore Ordering Paragraph 8 does not apply to it.

On the issue of technical infeasibility to adhere to the metering requirements for large GFs, the Petition later acknowledges ABC Solar’s client had a potential means to comply with those requirements, by means of a non-export relay solution offered by SolarEdge.²⁰

¹⁸ Petition at 12.

¹⁹ Petition at 12 and 16.

²⁰ Petition at 36-39.

The Petition's main policy argument is an assertion that "a 10KW battery system is too small for the average SCE ratepayer to be self-sufficient in emergencies and blackouts. A 10 KW system does not meet the system size requirements for self-sufficiency of the majority of ABC SOLAR customers, who are 90% SCE ratepayers."²¹ Here, it is worthwhile to make clear that D.14-05-033 does not preclude eligible customer-generators from installing NEM-paired storage devices larger than 10 kW. Rather, D.14-05-033 limits such a system's maximum output power to 150 percent of the NEM generator's maximum output power capacity, and requires metering equipment to ensure NEM bill credits accrue only to NEM-eligible generation so that these customer-generators may continue to receive service on a NEM tariff.

Finally, the Petition argues "AB2188 (sic) deliberately established cities are lead in solar permitting which includes paper works (sic) needed to get connected to the grid (sic)."²² Assembly Bill 2188 (Stats. 2014, Chap. 521) does, as the Petition quotes, direct cities and counties to create an expedited, streamlined permitting process for small residential rooftop solar energy systems. The utilities' interconnection processes, however, are separate processes and not subject to local governments' jurisdiction.

The Petition fails to provide a valid basis to modify D.14-05-033 as ABC Solar requests.

4. Conclusion

Good cause not shown, we find it reasonable to deny the Petition of ABC Solar for modification of D.14-05-033.

²¹ Petition at 50.

²² Petition at 61.

5. Comments on Proposed Decision

The proposed decision was mailed to the parties in accordance with Pub. Util. Code § 311, and comments were allowed in accordance with Rule 14.3 of the Commission's Rules of Practice and Procedure. On August 21, 2018, ABC Solar served and tendered for filing a *Protest with Extreme Prejudice [sic] Against Decision Denying Petition for Modification of Decision 14-05-033 Regarding Designation of Small Net Energy Metering-Eligible Facilities Paired With Energy Storage*. On September 11, 2018, the Commission's Docket Office rejected the document, identifying multiple deficiencies. ABC Solar was notified of the deficiencies and provided the opportunity to cure them within seven days of said notification in order for the document to be accepted for filing as comments to the proposed decision. On September 24, 2018, ABC Solar tendered for filing the same document, which did not cure the previously identified deficiencies. Nevertheless, based on the totality of circumstances in the instant proceeding, that ABC Solar is not represented by an attorney and that ABC Solar timely served the document on the service list, the assigned Administrative Law Judge exercised her discretion pursuant to Rule 1.2 of the Commission's Rules of Practice and Procedure and allowed the comments to be filed. The Commission's Docket Office is directed to accept ABC Solar's *Protest with Extreme Prejudice [sic] Against Decision Denying Petition for Modification of Decision 14-05-033 Regarding Designation of Small Net Energy Metering-Eligible Facilities Paired With Energy Storage* for filing in the proceeding record; this document serves as ABC Solar's comments to the proposed decision.

ABC Solar's comments reference a second document, the July 20, 2018 *Petition for Writ of Mandamus* filed with the California Court of Appeal by Bradley L. Bartz, who represents ABC Solar in this proceeding; ABC Solar attempted to

attach a copy of this document to its comments, but the second document also had deficiencies.²³ Pursuant to Rule 1.2 of the Commission's Rules of Practice and Procedure, Commission staff delayed consideration of the proposed decision for two consecutive business meetings (September 13, 2018 and September 27, 2018) in order to wait to receive the *Petition for Writ of Mandamus*, in paper format, and review it for compliance. Although Mr. Bartz provided notice of this filing to the service list on July 23, 2018, the *Petition for Writ of Mandamus* document has no direct bearing on our consideration and disposition of ABC Solar's Petition. The *Petition for Writ of Mandamus* has been rejected for filing; however, a copy has been retained in the correspondence file of this proceeding.²⁴

On September 4, 2018, SCE filed comments in support of the proposed decision "without material modification."²⁵ The Commission received no reply comments.

Nothing in the parties' comments, including those filed and served by ABC Solar and SCE, persuades us to alter the proposed decision. Non-substantive revisions were made for the purpose of clarification and consistency.

²³ *Bartz v. Public Utilities Commission of the State of California*, California Court of Appeal, Second Appellate District, Division 3 (Case No. B291465).

²⁴ ABC Solar also tendered for filing, on May 7, 2018, a notice of ex parte communication. At the discretion of the assigned ALJ, the Docket Office is directed to accept this notice of ex parte communication for filing in the proceeding record.

²⁵ *Opening Comments of Southern California Edison Company (U 338-E) on the Proposed Decision Denying Petition for Modification of Decision 14-05-033 Regarding the Designation of Small Net Energy Metering-Eligible Facilities Paired with Energy Storage*, filed September 4, 2018, at 1.

6. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Valerie U. Kao and Mary F. McKenzie are the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. The metering requirements applicable to large GFs paired with NEM-PS devices, adopted in D.14-05-033, are not related to Civil Code Section 714.
2. The metering requirements applicable to large GFs paired with NEM-PS devices, adopted in D.14-05-033, do not conflict with Self-Generation Incentive Program requirements.
3. Decision 14-05-033 adopted metering requirements for large GFs paired with NEM-PS devices pursuant to the definition of “eligible customer-generator” in Public Utilities Code Section 2827(b)(4).
4. Large NEM-eligible facilities paired with energy storage are not eligible for metering cost relief provided in D.16-04-020.
5. Ordering Paragraph 8 of D.14-05-033 does not apply to large GFs paired with NEM-PS devices.
6. Decision 14-05-033 does not preclude eligible customer-generators from installing NEM-paired storage devices larger than 10 kW.
7. The utilities’ interconnection processes are separate from local governments’ permitting processes and are not subject to local government regulation.

Conclusions of Law

1. The metering requirements applicable to large GFs paired with NEM-PS devices, adopted in D.14-05-033, do not violate Civil Code Section 714.

2. The metering requirements applicable to large GFs paired with NEM-PS devices, adopted in D.14-05-033, being unrelated to Civil Code Section 714, do not constitute “permissive detariffing” as defined in *MCI v. ATT*.

3. The October 23, 2017 Petition for Modification of D.14-05-033 should be denied.

4. All other pending motions filed by ABC Solar should be denied.

O R D E R

IT IS ORDERED that:

1. The October 23, 2017 Petition for Modification of Decision 14-05-033 is denied.

2. All other pending motions filed by ABC Solar Incorporated are denied.

3. Rulemaking 14-07-002 remains open.

This order is effective today.

Dated October 11, 2018, at San Francisco, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners